

CASE# 18-52601

ORIGINAL

re: Debtor
M MIROYAN

FILED
FEB 28 2019
CLERK
United States Bankruptcy Court
San Jose, California

Please take judicial
Notice of documents
that do not lie.

2/28/19 Mury
MIROYAN

Thank you

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#52

Step 2 = The ongoing attempt #53

EMAIL, Dec. 14, 2018
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JD MIROYAN REQUEST
for Extension to
complete conditions

30 March 2017

County of Hawaii Planning Department
(Attn: Planning Director, Mr. Michael Yee)
101 Pauahi Street, Suite 3, Hilo, HI 96720

SUBJECT: Request for Time Extension

TMK: (6) 6 - 8 - 002 : 021 (POR)

Reference: Ordinance No. 13 28 Bill No 20, effective date March 13, 2013 for complete information and conditions relevant.

Dear Mr. Yee,

I hereby formally request a time extension of 5 years (March 13, 2018- March 13, 2023) on behalf of Hawaiian Riverbend LLC for the performance of conditions listed within the ordinance. The non-performance is the result of conditions that could not have been foreseen and are beyond my control, and are not the result of my fault or negligence.

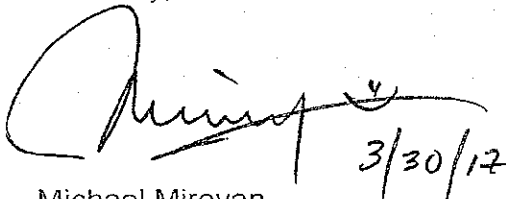
I require additional time to accurately address and perform listed conditions due to withdrawal of funding and membership of my original LLC partners. Regrettably, my partners in Hawaiian Riverbend LLC decided to cease funding of the project in December of 2012, and in June 2013 informed me they wanted to be "lender only" and be released from their membership purchase agreement.

It has taken four years for the matter to be resolved by the Federal bankruptcy court and settled between the partners. The reorganization plan for Hawaiian Riverbend LLC has been approved by bankruptcy court, and I am now the sole acting member of Hawaiian Riverbend LLC. I am hoping to finish the project with another investor partner or sell the project to an investor who wants to finish it.

I am committed to the project and have engaged Aina Engineers Inc. (AEI) for consultation. AEI will present a status report with specific regards to the rezone ordinance and listed performance conditions.

Please contact me with any questions or requests for additional information. I can be reached at (408) 913-3123 or mac8881@me.com.

Sincerely,

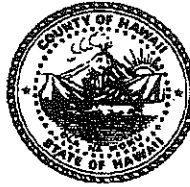


3/30/17

Michael Miroyan
Hawaiian Riverbend LLC
PO Box 3181
Saratoga, CA 95070-1181

apt.
denied
6/9/17

Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

June 9, 2017

Mr. Peter J. K. Dahlberg, P.E.
Aina Engineers Inc.
P.O. Box 81
Holualoa, HI 96725

Dear Mr. Dahlberg:

Change of Zone Ordinance No. 13-028 (REZ 12-000157)
Applicant: Hawaiian Riverbend, LLC
Request: A-5a to CV-20
Subject: Status Report and Administrative Time Extension Request
Tax Map Keys: 6-8-002; 053 (formerly 6-8-002: portion of 021)

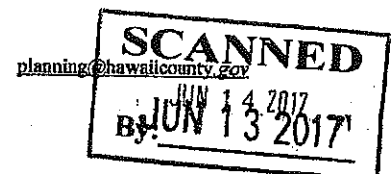
This is to acknowledge receipt of your letter received April 24, 2017, which included a status report and a 5-year administrative time extension request to comply with Condition B (time to complete construction).

Any request to amend the conditions of the Ordinance No. 13-028, including changing from a roundabout to a channelized intersection, will require the submittal of an amendment application to the Planning Department. The request will be forwarded to the Planning Commission and the Hawai'i County Council.

Please be informed that the representations made by the applicant for the project did not include the current proposal to create twenty (20) 20,000-square foot commercial lots, which would have reflected a condition requiring that Final Subdivision Approval be submitted within a particular time period. The proposed project that was approved included a condition that construction, not subdivision, of the project be completed within five years from the effective date of the ordinance.

www.cohplanningdept.com

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Mr. Peter J. K. Dahlberg, P.E.
Aina Engineers Inc.
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June 9, 2017

Prior to the submittal of a proposed subdivision application to the Planning Department, we would require that this proposal be brought forth to the Planning Commission and the Hawai'i County Council for their review and approval as part of the amendment request as stated above for the requested amendments to the intersection.

We will not grant an administrative time extension unless the original proposed project proceeds forward or an amendment request is submitted to the Planning Commission and Hawai'i County Council for the above changes, including the current proposed subdivision project.

We would suggest that you meet with the Waikoloa Community Association and the South Kohala Community Development Plan Action Committee to present them with your proposal to change the project concept and signalize the intersection.

If you have any questions, please feel free to contact Jeff Darrow at 961-8158.

Sincerely,



MICHAEL YEE
Planning Director

JWD:mad

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January 22, 2018

DECLARATION of MARGARET TIGUE
68-1837 Pau Nani Street
Waikoloa, HI 96738

My name is Margaret Tigue. I am a Real Estate Associate licensed in the state of Hawaii. I live and work in Waikoloa village and was a 6-year Board member of the Waikoloa Village Association from 2004 – 2010.

I had an occasion to speak to Mr. Michael Miroyan about his 14.6 acres of commercially zone Hawaiian Riverbend LLC's property in Waikoloa Village. An investor was looking to put a small mini-storage complex in which is very much needed in Waikoloa.

Mr. Miroyan was receptive to the idea and wanted to sell us some land but we needed to determine whether or not it was an approved use for his zoning or not. In doing my due diligence on the project and the property, I visited the Kona planning department on 2 separate occasions in the summer of 2017. On both occasions I was told by the associate at the counter that property had to have certain improvements and the timing for that was about to expire in September. On the 2nd visit, I was told that the project timeline for improvements was extended to, I believe, year end 2017. They seemed to indicate it was not a good idea to purchase since Mr. Miroyan could lose the zoning if it expired.

Obviously, without the needed approvals to guarantee the type of project we were looking for, it was wiser to wait to investigate the property further and buy the property only after he had received his extension that would be reasonable to complete the necessary site improvements to meet the County's planning.

I explained all of this to Mr. Miroyan and that basically ended our negotiations. I know Mr. Miroyan was working on getting the extension mentioned. We are still interested in having a project such as this in Waikoloa but I have learned it would require approval on industrial land or he might have to request or submit a request in writing to see if it would be approved on his property with a conditional use permit or something like that.

Mr. Miroyan recently called me and asked me if I would submit a declaration regarding these circumstances and I told him that I would. My statement is truthful and what my conversations were with Mr. Miroyan and the county associates.

I swear under penalty of perjury of the laws of Hawaii that all the above is true.


Margaret Tigue

Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
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County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

September 15, 2017

Mr. Michael Miroyan, Manager
Hawaiian Riverbend, LLC
P.O. Box 3181
Saratoga, CA 95070

Dear Mr. Miroyan:

Change of Zone Ordinance No. 13-028 (REZ 12-000157)
Applicant: Hawaiian Riverbend, LLC
Request: A-5a to CV-20
Subject: Administrative Time Extension Request
Tax Map Keys: 6-8-002: 053 (formerly 6-8-002: portion of 021)

This is to acknowledge receipt of your letters received on August 30, 2017 and September 8, 2017 requesting a reconsideration for an administrative time extension to comply with Condition B (time to complete construction) of Ordinance No. 13-028, as well as other conditions of compliance.

Based on information received in a meeting between you, Daryn Arai and Jeff Darrow of my staff on August 23, 2017, as well as information received in the above referenced letters, we will be reconsidering our June 9, 2017 determination. The information received in your previous request represented a proposal to create twenty (20) 20,000-square foot commercial lots, which was not the original proposal represented in your Change of Zone application, as then represented to the Council and the community. In our meeting, you confirmed that you will be committed to the original project concept and that you would substantially comply with the original representations, which was represented to the Council through its approval of the Village Commercial zoning district for this property.

Based on the above information and the reasons stated within your letters, the Planning Director has determined that non-performance is a result of conditions that could not have been foreseen and not a result of fault or negligence. Further, the granting of an additional five (5) year

SEP 18 2017

Mr. Michael Miroyan, Manager.
Hawaiian Riverbend, LLC
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extension of time would not be contrary to the General Plan or Zoning Code, nor the original reasons for granting the change of zone. **Therefore, a five (5) year administrative extension of time to comply with Condition B is granted until March 13, 2023.**

Please be informed, however, should you need an additional extension of time to comply with Condition B, your request and reasons, along with 20 copies of that request shall be forwarded to the Planning Commission with a \$250 filing fee. A public hearing will be held by the Planning Commission, who will forward their recommendation to the County Council.

If you have any questions, please feel free to contact Jeff Darrow at 961-8158.

Sincerely,



MICHAEL YEE
Planning Director

JWD:mad

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cc: Mr. Peter J. K. Dahlberg, P.E., Aina Engineers Inc.